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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,103	07/14/2003	Junichi Ishizuka	F-7859	5800
28107	7590	09/03/2010		
JORDAN AND HAMBURG LLP 122 EAST 42ND STREET SUITE 4000 NEW YORK, NY 10168			EXAMINER DEGHAN, QUEENIE S	
			ART UNIT	PAPER NUMBER
			1791	
			MAIL DATE	DELIVERY MODE
			09/03/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

10/619, 103

Applicant(s)

ISHIZUKA, JUNICHI

Examiner

QUEENIE DEHGHAN

Art Unit

1791

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 17 August 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
 b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
 Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
 (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
 (b) ☐ They raise the issue of new matter (see NOTE below);
 (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.
 NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☒ Applicant's reply has overcome the following rejection(s): 112 1st paragraph, all the 112 2nd paragraph.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____

Claim(s) objected to: _____

Claim(s) rejected: 2, 5, 7, 8, 11, 12, 19 and 21-28

Claim(s) withdrawn from consideration: _____

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____

/Queenie Dehghan/
Examiner, Art Unit 1791

Continuation of 11, does NOT place the application in condition for allowance because: Regarding the 112, 1st paragraph rejection, the proposed amendment overcomes this rejection. Furthermore, the rejections under 112, 2nd paragraph regarding claims 5 are also overcome due to the amendment. The amendments for claims 7, 8, 12 and 19 also overcome the 112, 2nd paragraph rejections. Regarding claim 21, the applicant has defined the length is constant for distance that is measured between the terminal ends of the first and second cores when they made initial contact with the preform. This clarification overcomes the remaining 112, 2nd paragraph rejection.

Regarding Ikeuchi, the applicant argues crescent shaped space below the preform cannot be equated with the claimed term "gap". The term gap is defined as the difference between the area occupied by the preform and the corresponding receiving area bounded by the radial boundary of the restrictor and the spacing between the periphery of the lens preform and inner peripheral surface. The applicant further argues the claimed definition is "quite different" from a space formed by a difference in volume between the chamber and the preform. The applicant does not clarify how it is "quite different". Nonetheless, the area occupied by the bottom portion of the preform is clearly smaller than the area of the corresponding receiving area, i.e. at 13b in figure 4. Furthermore, clearly a gap exists between the periphery of the preform and the inner peripheral surface. Also demonstrated in figure 1, a gap exists between the left most tip of the preform and the inner peripheral surface of the restrictor. It appears the claimed limitation of a gap are met and satisfied.

The applicant further argues the outer peripheral shoulder parts 11a2 and 11b2 of Ikeuchi is not being formed by the transferred process. The claim recites the lens preform is forced radially outward to contact the inner peripheral surface, while the inner peripheral surface operates to prevent the material from escaping in an outward direction. Ikeuchi teaches edge 11b1 which forms as result of the outward push of the preform against the restrictor. Shoulders 11a2 and 11b2 does not appear to contradict this limitation of the claim. Nonetheless, Ikeuchi teaches in figures 5-7 and outer edge without shoulders.